

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

John J. Connolly, Jr.
Movant,

2005 JAN 25 P 3:15

- v -

Civ. No. 04HC295 DISTRICT COURT
[Crim. No. 99S10428] OF MASS.

United States of America
Respondant

MOTION REQUESTING APPOINTMENT OF COUNSEL

Comes now, John J. Connolly, Jr., (hereinafter "Movant") appearing pro se in the above captioned matter, hereby moves the Honorable Court to appoint counsel for the purpose of assisting movant to substantiate his claim of innocence. Movant petitions the Honorable Court for such assistance due to the complexity of "newly discovered evidence," necessitating further discovery requests and the uncertainty of the need to bifurcate the disparate substantive issues either under Movant's \$2255 proceedings or a separate and distinct motion filed under the Federal Rules of Criminal Procedure's Rule 33, new trial.

BRIEF SUMMARY OF THE RELEVANT FACTS AND PROCEDURAL
HISTORY EMINATING FROM MOVANT'S CASE

After a three week trial, a federal jury returned a verdict of guilty of one count of racketeering under the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 USC § 1962(c), two counts of Obstruction of Justice, 18 USC § 1503, and one count of making false statements, 18 USC § 1001. The district court subsequently imposed a sentence of 121 months of imprisonment, followed by a two-year period of supervised release.

The Movant timely appealed his conviction and sentence to the First Circuit Court of Appeals and they were affirmed

on August 14, 2003. See United States v. Connolly, 341 F. 3d 16, (1st Cir. 2003). The Movant proceeding pro se filed a timely 28 USC § 2255 motion in the District Court on November 12, 2004.

The Movant subsequently requested the Honorable Court to stay his Title 28 § 2255 proceedings in light of newly discovered evidence and to allow for the anticipated ruling of the Supreme Court in the Booker and Fan-Fan cases then before them. The Honorable Court ordered the motion to stay Movant's §2255 proceedings in light of newly discovered evidence (#3, filed December 6, 2004) be ORDERED to the extent that Movant shall have until the close of business on Friday, April 29, 2005 to file an amended §2255 motion in which all grounds for relief are stated.

REASONS FOR REQUESTING APPOINTMENT OF
COUNSEL BY HONORABLE COURT

As cited to the Honorable Court in Movant's request for stay of §2255 proceedings, the Movant, via his Civil attorney filing for discovery in another Civil action discovered testimony and new evidence uncovered by the Congressional Committee on Government Reform, which evidence totally undermines the charges and purported evidence on which Movant was convicted and which clearly proves Movant's innocence with respect to the charges brought forward.

Subsequent to Movant's above cited motion to stay, the primary government witness against Movant, Francis Patrick Salemme, aka, "Cadillac Frank," was arrested and charged in a two-count indictment unsealed in Federal Court on Tuesday, November 9, 2004. Mr. Salemme was charged with Obstruction of Justice and Making False Statements in his Plea Agreement relative to the May 1993 disappearance of one, Stephen A. DiSarro. Mr. Salemme perjured himself under oath at Movant's trial when questioned

about the exact same issue -- his involvement in the disappearance of Stephen A. DiSarro.

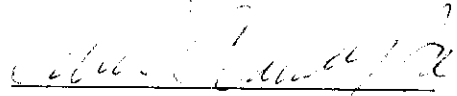
The perjured testimony of Mr. salemme at Movant's trial, coupled with the previous discovery of newly discovered evidence cited in Movant's request for stay of his §2255 motion, implicates the need for Movant's access to competent professional counsel to assist in the exponential increase of newly discovered evidence and perjured testimony. With the previously mentioned newly discovered evidence uncovered by the Congressional Committee on Government Reform, in addition to newly discovered evidence of perjured testimony, there now exists a pressing need for analysis of documents, previously requested of the government pursuant to Movant's pre-trial motions for the purpose of auditing compliance in light of Movant's right of Due Process as established by Supreme Court precedents in *Brady v. Maryland*, 373 U.S. 83, 87 (1963); and, *United States v. Bagley*, 473 U.S. 667, 105 S.Ct. 3375, 87 L.Ed. 2d 481, 53 U.S.L.W. 5084 ("the suppression by the prosecution of evidence favorable to an accused upon request violates Due Process where the evidence is material either to guilt or punishment").

The complexity of the burgeoning amount of newly discovered evidence and the concomitant need for effective discovery requests tailored to access anticipated new evidence -- are daunting. Additionally, Movant is in need of competent professional advise on the potential procedural interrelatedness of Movant's 28 USC § 2255 Motion as juxtaposed with issues pertaining to a new trial under the Federal Rules of Criminal Procedure, Rule 33.

In sum, for the foregoing reasons, the interests of Justice, and in preservation of judicial economy the Movant respectfully

requests this Honorable Court to appoint competent legal counsel to assist Movant with his complex, numerous and mounting legal issues.

Respectfully submitted,



John J. Connolly, Jr.

Reg# 22928-038

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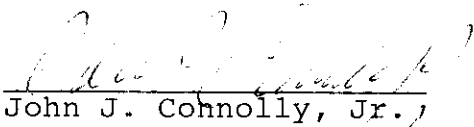
Butner, NC 27509

CERTIFICATE OF SERVICE

I, John J. Connolly, Jr., certify that I mailed one true copy of the foregoing Motion Requesting Appointment of Counsel to the United States Attorney for the District of Massachusetts, by placing it in an envelope with first-class postage pre-paid affixed thereto, and addressing to the below address.

US Attorney Michael J. Sullivan
Office of the United States Attorney
District of Massachusetts
John J. Moakley US Courthouse
One Courthouse Way
South Boston, Mass 02210

Respectfully submitted,


John J. Connolly, Jr.,